

**Minutes
URBAN COUNTY PLANNING COMMISSION
SUBDIVISION ITEMS**

April 14, 2011

- I. CALL TO ORDER** - The meeting was called to order at 1:30 p.m. in the Council Chambers, Urban County Government Building, 200 East Main Street, Lexington, Kentucky.

Planning Commission Members Present – Carolyn Richardson, Chair; Mike Cravens; Lynn Roche-Phillips; Marie Copeland; Ed Holmes; Mike Owens; William Wilson; Eunice Beatty; Patrick Brewer and Derek Paulsen. Carla Blanton was absent.

Planning Staff Present – Chris King, Bill Sallee, Barbara Rackers, Tom Martin, Chris Taylor, Cheryl Gallt and Denice Bullock. Other staff members in attendance were: Hillard Newman, Division of Engineering; Captain Charles Bowen, Division of Fire & Emergency Services; Rochelle Boland, Department of Law and Jim Gallimore, Division of Traffic Engineering.

- II. APPROVAL OF MINUTES** – The Chair noted that there were no prior Planning Commission meeting minutes to be considered at this time.

- III. POSTPONEMENTS OR WITHDRAWALS** – Requests for postponement and withdrawal will be considered at this time.

- a. PLAN 2011-22F: DENTON FARMS, INC., UNIT 1-F (AMD) (5/1/11)* - located at 3936-3985 Tatton Park.
(Council District 7) **(Foster-Roland, Inc.)**

Representation – John Barlow, applicant, was present, and requested postponement of PLAN 2011-22F to the May 12, 2011, Planning Commission meeting.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request for postponement. There was no response.

Action - A motion was made by Mr. Cravens, seconded by Mr. Wilson, and carried 10-0 (Blanton absent) to postpone PLAN 2011-22F to the May 12, 2011, Planning Commission meeting.

- b. DP 2009-75: NDC PROPERTY, UNIT 5D, PH II (WELLINGTON) (5/29/11)* - located at 501 West Reynolds Road and Vincent Way.
(Council District 9) **(Sherman/Carter/Barnhart)**

Representation – John Barlow, applicant, was present, and requested postponement of DP 2009-75 to the May 12, 2011, Planning Commission meeting.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request for postponement. There was no response.

Action - A motion was made by Mr. Owens, seconded by Ms. Beatty, and carried 10-0 (Blanton absent) to postpone DP 2009-75 to the May 12, 2011, Planning Commission meeting.

- c. DP 2011-26: SHARKEY PROPERTY, UNIT 1, LOT 18 (TOWNLEY CENTER) (5/29/11)* - located at 1701 Sharkey Way.
(Council District 2) **(The Roberts Group)**

Representation – Bob Cornett, The Roberts Group, was present representing the applicant, and requested postponement of DP 2011-26 to the May 12, 2011, Planning Commission meeting.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request for postponement. There was no response.

Action - A motion was made by Mr. Cravens, seconded by Mr. Owens, and carried 10-0 (Blanton absent) to postpone DP 2011-26 to the May 12, 2011, Planning Commission meeting.

- d. PLAN 2011-38F: PARKWAY PLAZA (AMD) (5/29/11)* - located at 2361-2397 Paris Pike.
(Council District 6) **(Vantage Engineering)**

Staff Comments – Mr. Martin said that the staff had received an email correspondence from the applicant's engineer, requesting postponement of PLAN 2011-38F to the May 12, 2010, Planning Commission meeting.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request for postponement. There was no response.

Action - A motion was made by Mr. Owens, seconded by Mr. Brewer, and carried 10-0 (Blanton absent) to postpone PLAN 2011-38F to the May 12, 2011, Planning Commission meeting.

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- e. DP 2011-29: JEFFERSON & POOLE PROPERTY (PARKWAY PLAZA) (AMD) (5/29/11)* - located at 2361-2397 Paris Pike. (Council District 6) **(Vantage Engineering)**

Staff Comments – Mr. Martin said that the staff had received an email correspondence from the applicant's engineer, requesting postponement of DP 2011-29 to the May 12, 2010, Planning Commission meeting.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request for postponement. There was no response.

Action - A motion was made by Mr. Owens, seconded by Mr. Brewer, and carried 10-0 (Blanton absent) to postpone DP 2011-29 to the May 12, 2011, Planning Commission meeting.

- IV. **LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, April 7, 2011, at 8:30 a.m. The meeting was attended by Commission members: Mike Cravens, Mike Owens, Marie Copeland and Eunice Beatty. Committee members in attendance were: Hillard Newman, Division of Engineering; and Jeff Neal, Division of Traffic Engineering. Staff members in attendance were: Bill Sallee, Tom Martin, Chris Taylor, Barbara Rackers, Denice Bullock, Kenzie Gleason and Roger Daman, as well as Captain Charles Bowen, and Firefighter Allen Case, Division of Fire & Emergency Services; Rochelle Boland, Law Department and Bob Carpenter, Division of Building Inspection. The Committee made recommendations on plans as noted.

General Notes

The following automatically apply to all plans listed on this agenda unless a waiver of any specific section is granted by the Planning Commission.

1. *All preliminary and final subdivision plans are required to conform to the provisions of Article 5 of the Land Subdivision Regulations.*
2. *All development plans are required to conform to the provisions of Article 21 of the Zoning Ordinance.*

- A. **CONSENT AGENDA - NO DISCUSSION ITEMS** – Following requests for postponement or withdrawal, items requiring no discussion will be considered.

Criteria:

- (1) the Subdivision Committee recommendation is for approval, as listed on this agenda; and
- (2) the Petitioner is in agreement with the Subdivision Committee recommendation and the conditions listed on the agenda; and
- (3) no discussion of the item is desired by the Commission; and
- (4) no person present at this meeting objects to the Commission acting on the matter without discussion; and
- (5) the matter does not involve a waiver of the Land Subdivision Regulations.

Requests can be made to remove items from the Consent Agenda:

- (1) due to prior postponements and withdrawals,
- (2) from the Planning Commission,
- (3) from the audience, and
- (4) from Petitioners and their representatives.

At this time, The Chair requested that the Consent Agenda items be reviewed. Mr. Sallee identified the following items appearing on the Consent Agenda, and oriented the Commission to the location of these items on the regular Meeting Agenda. He noted that the Subdivision Committee had recommended conditional approval of all of these items. (A copy of the Consent Agenda is attached as an appendix to these minutes).

1. DP 2011- 24: MAHAN PROPERTY, UNIT 1-B (APARTMENTS) (AMD) (5/29/11)* - located at 4161 Victoria Way. (Council District 9) **(EA Partners)**

Note: The purpose of this amendment is to revise building types and their layout.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Approval of street addresses as per e911 staff.
5. Bike & Pedestrian Planner's approval of bike and pedestrian facilities.
6. Division of Fire's approval of emergency access and fire hydrant locations.
7. Correct garage square footage in site statistics.
8. Correct lot coverage in site statistics.
9. Resolve possible pedestrian crosswalk location(s) on Victoria Way to the approval of the Division of Traffic Engineering.

2. DP 2011- 25: PHIL GREER PROPERTY, LOT 1 (AMD) (AKA STANDFORD CO. & PUGH CO.) (5/29/11)* - located at 3098 Richmond Road. (Council District 7) **(Midwest Engineering)**

Note: The purpose of this amendment is to revise the building and parking on Lot 1.

* - Denotes date by which Commission must either approve or disapprove plan.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping, landscape buffers and compliance with the Richmond Road landscape ordinance.
4. Approval of street addresses as per e911 staff.
5. Urban Forester's approval of tree protection plan.
6. Division of Fire's approval of emergency access and fire hydrant locations.
7. Correct site statistics (on Lots 2 & 3 for acreage).
8. Label access points as "existing."

3. DP 2011-28: GENERAL TELEPHONE CO, LOT 1 (AMD) (5/29/11)* - located at 3841 Nicholasville Road.
(Council District 9) **(Midwest Engineering)**

Note: The purpose of this amendment is to revise the building and parking layout on Lot 1.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Approval of street addresses as per e911 staff.
5. Urban Forester's approval of tree protection plan.
6. Division of Fire's approval of emergency access and fire hydrant locations.
7. Division of Waste Management's approval of refuse collection.
8. Denote location of trees on Lot 1 that are required to meet canopy calculations.

4. DP 2011-35: PLAZA PROPERTY (AMD) (6/28/11)* - located at 1760 Harrodsburg Road.
(Council District 10) **(Leachman Landscape Design)**

Note: The purpose of this amendment is to revise the building and parking layout.

The Subdivision Committee Recommended: **Approval**, subject to the following requirements:

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Approval of street addresses as per e911 staff.
5. Urban Forester's approval of tree protection plan.
6. Division of Fire's approval of emergency access and fire hydrant locations.
7. Division of Waste Management's approval of refuse collection.
8. Denote previous variances granted.
9. Provided the Board of Adjustment grants a landscape variance.
10. Revise the plan title.
11. Denote the construction access location.
12. Addition of contour information from the Zoning Development Plan (1' contours).
13. Revise note #4 to reference Chapter 16 of the Code of Ordinances.
14. Revise note #7 to the approval of the Division of Engineering.
15. Review by Technical Committee prior to certification.
16. Kentucky Department of Transportation's approval of access to Harrodsburg Road.

5. ZDP 2007-81: VILEY HEIGHTS SUBDIVISION, UNIT 3-D (OBEY & JOELLA WALLEN PROPERTY) (6/28/11)* - located at 1388 Alexandria Drive. (Council District 11) **(Justice Surveying)**

Note: The Planning Commission indefinitely postponed this plan at their July 26, 2007, meeting, pending the zoning decision by the Urban County Council. The Urban County Council approved the zone change request at their October 18, 2007, meeting. The Planning Commission approved this plan at their November 8, 2007, meeting, subject to the following conditions:

1. Provided the Urban County Council rezones the property B-1; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Building Inspection's approval of landscaping.
5. Urban Forester's approval of tree inventory map.
6. Addition of required retail parking in site statistics.
7. Denote uses of buildings in site statistics.
8. Addition of tree protection plan.

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9. Correct plan title.
10. Delete signs from plan.
11. Addition of the 1992 floodplain information and the newer DFIRM maps.

Approval of this plan has since expired. A few weeks ago, the Planning Commission asked to redocket this item for consideration.

The Subdivision Committee Recommended: **Reapproval**, subject to the original conditions, changing #11 as follows:

11. Addition of the current ~~1992~~ floodplain information and the newer DFIRM maps.

In conclusion, Mr. Sallee said that the items listed on the Consent Agenda could be considered for conditional approval at this time by the Commission, unless there was a request for an item to be removed from consideration for discussion by a member of the Commission or the audience.

Consent Agenda Discussion – The Chair asked if anyone in the audience or on the Commission desired further discussion of any of the items listed on the Consent Agenda. Mr. Owens requested that ZDP 2007-81 be removed from the Consent Agenda for further discussion by the Commission.

Ms. Copeland said that at the April 7th Subdivision Committee meeting, the Committee had noted that DP 2011-35 had a number of “cleanup” conditions listed on its recommendation for approval. At that meeting, the Committee requested that the applicant address those conditions prior to today’s meeting, and she asked if the applicant had done so. Mr. Martin said that the applicant had submitted a revised plan to the staff, addressing a number of items. Ms. Copeland asked if conditions #8 through 16 had been addressed. Mr. Martin replied yes, with the exception of conditions #15 and 16. He noted that this plan will be reviewed by the Technical Committee on April 27, 2011 (condition #15), and approval from the Kentucky Department of Transportation regarding the access to Harrodsburg Road will still need to be obtained (condition #16). He then said that staff is comfortable with recommending approval, subject to the original conditions, but could also briefly discuss the revised submission should the Commission wish to. Ms. Copeland noted for the record that the applicant had submitted a revised plan to the staff at the last minute addressing the “cleanup” conditions. The Chair asked if DP 2011-35 should remain on the Consent Agenda. Ms. Copeland agreed that it should.

Action - A motion was made by Ms. Roche-Phillips, seconded by Mr. Owens and carried 10-0 (Blanton absent) to approve the remaining items listed on the Consent Agenda.

Action - A motion was made by Ms. Roche-Phillips, seconded by Mr. Wilson and carried 10-0 (Blanton absent) to remove ZDP 2007-81 from the Consent Agenda.

- B. DISCUSSION ITEMS** – Following requests for postponement, withdrawal and no discussion items, the remaining items will be considered.

The procedure for consideration of these remaining plans is as follows:

- Staff Report(s)
- Petitioner’s Report(s)
- Citizen Comments – (a) in support of the request, and (b) in opposition to the request
- Rebuttal – (a) petitioner’s comments, (b) citizen comments, and (c) staff comments
- Commission discusses and/or votes on the plan

1. DEVELOPMENT PLANS

- a. DP 2011-27: TATES CREEK CENTER (AKA BELLEAU WOODS SHOPPING CENTER) (AMD) (5/29/11)* - located at 4051, 4101 & 4151 Bates Creek Road. (Council District 4) **(The Roberts Group)**

Note: The purpose of this amendment is to add 23,182 square feet of retail space. This plan also requires a review of the adopted Big-Box Design Guidelines.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer’s acceptance of drainage, storm and sanitary sewers and floodplain information.
2. Urban County Traffic Engineer’s approval of street cross-sections and access.
3. Building Inspection’s approval of landscaping and landscape buffers.
4. Approval of street addresses as per e911 staff.
5. Urban Forester’s approval of tree protection plan.
6. Bike & Pedestrian Planner’s approval of bike trails and pedestrian facilities.
7. Division of Fire’s approval of emergency access and fire hydrant locations.
8. Division of Waste Management’s approval of refuse collection.
9. Provided the Planning Commission makes a finding of significant compliance with the Big-Box Design Guidelines.
10. Resolve building/easement conflicts in the rear of the development prior to the issuance of any building permits.

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11. Resolve the addition of pedestrian connections and sidewalks to better address Big-Box Design Guidelines compliance.
12. Discuss the need for additional transit facilities (possible van pool lot).

Staff Presentation – Mr. Taylor directed the Commission's attention to a rendering of the amended Final Development Plan for the Bates Creek Center (aka: Belleau Woods Shopping Center). This property is located at 4051, 4101 & 4151 Bates Creek Road. He oriented the Commission to the surrounding street system, and said that the subject property is located between the intersections of Man o' War Boulevard and Bates Creek Road; and Wilson-Downing Road and Bates Creek Road. He indicated that the Belleau Wood Subdivision is located behind the subject property and Bates Creek South Shopping Center is located across Man o' War Boulevard on Saron Drive. He noted that there are multiple access points to the subject property, and included access from Wilson-Downing Road, Bates Creek Road and Man o' War Boulevard.

Mr. Taylor said that the purpose of this amendment is to demolish a portion of the existing Kroger grocery store and to add a 36,615 square foot expansion, as well as to add 4,700 square feet for a new Chase Bank. He noted that the proposed expansion of this development will require a review of the adopted Big-Box Design Guidelines. He said that the applicant is proposing to add a transit stop and other pedestrian amenities in front of the new addition. By providing these amenities, the applicant would be allowed to reduce their overall parking by up to 10 percent.

Mr. Taylor then said that at the April 7, 2011, Subdivision Committee meeting, this request was recommended for approval, subject to the list of conditions on today's agenda. The first 8 conditions are standard sign-offs. He said that since this request had prompted the application of the Big-Box Guidelines, the Commission would need to make a finding stating that this request is in significant compliance with the Big-Box Guidelines (condition #9).

Mr. Taylor directed the Commission's attention to the rear of the development, and said that there is a building and easement conflict between the new addition and the existing sanitary sewer line. He then said that the sanitary sewer will need to be released through the Urban County Council and a new easement created through an easement minor plan. This will need to be completed prior to the issuance of any building permits (condition #10).

Mr. Taylor noted that at the Subdivision Committee meeting, there was discussion concerning the possibility of an additional pedestrian connections and sidewalks. He said that there is an existing sidewalk along Man o' War Boulevard, but there is not a sidewalk along Bates Creek Road. The applicant has agreed to provide a sidewalk connection from the intersection of Man o' War Boulevard and Bates Creek Road north to the entrance of the Shopping Center. The applicant has also agreed to provide an additional pedestrian connection from Bates Creek Road into the Shopping Center (condition #11).

In conclusion, Mr. Taylor said that in addition to the transit facilities in front of the new addition, the staff is requesting that a van pool lot be added on this property (condition #12). Due to the parking being reduced by 10 percent, the staff wanted to make sure that all the necessary pedestrian amenities were being utilized. He said that in speaking with the Metropolitan Planning Organization (MPO) staff, a 16-passenger van could be used at this location. He then said that the applicant is willing to provide this service, but they need to confirm this request with the property owners.

Big-Box Guideline Report – Mr. Martin directed the Commission's attention to the staff report previously submitted and to the rendering of the Exterior Elevations submitted by the applicant. He said that one of the important aspects of the Big-Box Guidelines is the Physical Design of the Building. He said that the front façade should appear to be broken in a linear fashion; and to achieve this look, the applicant has proposed to provide offsets and insets every 100' or less along the front and side of the Kroger building. He then said that the building height should also be broken up by utilizing mansard roofs, as well as parapet walls. Mr. Martin said that there was considerable discussion at the Subdivision Committee meeting, and the Committee members felt that the proposed 18" relief between the mansard roof and the parapet wall should be increased to at least 36." The staff understands that the applicant is agreeable to this change. He noted that the smaller stores in the Shopping Center should have the illusion of their own entrances, and this can be provided by bump-outs and covered sidewalks.

Mr. Martin stated that another aspect of the Big-Box Guidelines is the Adjoining Streets and Land Use requirement. He said that this requires customer entrances to be clearly delineated on the development plan, and face a public street. In this situation, the entrance for Chase Bank will be facing Man o' War Boulevard and the existing entrance for Kroger is diagonal to the intersection of Man o' War Boulevard and Bates Creek Road. He then directed the Commission's attention to the rear portion of the development plan, and noted that this development already has existing loading docks, and trash collection is already being provided. He said that according to the Big-Box Guidelines, if a residential neighborhood had been directly adjacent to the shopping center, landscape screening would be required. However, for this proposal, the landscape screening already exists and is not necessary.

Mr. Martin then stated that the next aspect of the Big-Box Guidelines is to provide a Pedestrian Flow throughout the shopping center. He noted that this development already has an existing sidewalk for the full length of the building in the development. He said that the applicant has proposed to add two pedestrian amenities. One will be a smaller transit station along the new addition on the side toward Man o' War Boulevard. This smaller transit station could be used for

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the smaller transportation vehicles, such as are used by Wheels. The larger LexTran buses would still utilize the existing transit stop on Wilson-Downing Road and the new facility, if bus routes were to change in the future. He then said that another type of pedestrian amenity would be an outdoor patio or seating area. The existing development does not comply with this guideline; however, the applicant has proposed to provide an outdoor seating area along the front of Kroger facing Bates Creek Road.

Mr. Martin then stated that as part of the "pedestrian flow" throughout the shopping center; pedestrian improvements, such as a crosswalk, should be provided and clearly distinguished on the development plan. He then said that another type of pedestrian movement is through the parking lot area. The parking lot should be designed to allow pedestrian movement to be parallel with the moving vehicles. He said that this shopping center was completed prior to the adoption of Big-Box Guidelines; therefore, the parking lot did not have to meet this requirement, and he noted that currently the parking lot designed are at a 45 degree angle, which is out of compliance with the Big-Box Design Guidelines. Mr. Martin stated that the parking lots for the newer Big-Box developments would require no more than 60 percent of the parking area to be located in front of the retail use and between the adjoining streets. He said that since this is an existing shopping center and the parking design was based upon the original development plan, this proposal does not meet the Big-Box requirement. He noted that the applicant is not proposing any changes with this amendment and the shopping center will remain out of compliance with this guideline.

Mr. Martin then stated that bicycle parking areas are also encouraged through the Big-Box Guidelines. He said that at this time there are no bike racks being provided in the shopping center, but with the proposed amendment, the applicant is proposing new bike racks along the side of the new addition. The staff is requesting that the bike racks be relocated closer to the Kroger entrance. This location would have the bike racks under the covered sidewalk and in the line of sight of the entrance.

Mr. Martin said that as part of the pedestrian connection, sidewalks are required with a Big-Box development. He noted that there are existing sidewalks along Man o' War Boulevard, and said that the applicant has proposed to provide sidewalks along Bates Creek Road down to the entrance into the shopping center. He then said that the staff is recommending that the applicant provide continuation of a safe passageway down into the shopping center. He noted that the applicant has agreed to work with the staff on this issue. In conjunction with the pedestrian connection, there is an issue of providing a van pool area. He said that as part of the Big-Box Guidelines, the staff has added a condition to identify the location of the van pool area on the development plan, which would then be subject to the approval of the Metropolitan Planning Organization staff. The applicant is in the process of contacting the property owner, and could provide that information to the Commission during their presentation.

In conclusion, Mr. Martin stated that with the challenges of the existing shopping center, the staff believes the proposed development plan amendment substantially meets the Big-Box Design Guidelines. He said that the staff is recommending approval, for the following reasons:

1. The amended plan, as submitted, demonstrates considerable compliance with the adopted Big-Box Design Guidelines and will constitute an improvement to the overall compliance for this shopping center.

This recommendation is subject to the following conditions:

- a. Extend sidewalk from Bates Creek Road, across access road, to the front of the shopping center.
- b. Identify van pool parking area on site, to the approval of the Metropolitan Planning Organization staff.
- c. Label canopies in front of Kroger store.
- d. Relocate bike racks closer to Kroger's entrance.

Planning Commission Questions – Ms. Roche-Phillips asked if the sidewalk inside the development will be extended to the outlots along Man o' War Boulevard, and asked if there will be a sidewalk connection to Wilson-Downing Road. Mr. Martin explained that there will be a sidewalk connection from the corner of Man o' War Boulevard and Bates Creek Road north to the shopping center entrance on Bates Creek Road. As for the sidewalk connection within the shopping center, he said that there are existing sidewalks along the front of the building; but as for providing sidewalks along the frontage of the outlots toward Man o' War Boulevard, that is outside of the amended area. He then said that there will not be a sidewalk connection made from the entrance of the shopping center on Bates Creek Road to Wilson-Downing Road.

Representation – Bob Cornett, The Roberts Group, was present representing the applicant. He noted that they have worked with the staff to address the Big-Box Guidelines; but with regards to the van pool issue, they were not aware of this requirement until the Subdivision Committee meeting. He said that the property owner is located out of Houston, Texas, and a Kroger representative has made several attempts to contact them. At this time, the van pool issue has not been resolved, and he said that they are hoping that the issue of the van pool will not "kill" the 40,000 square-foot expansion. If providing a van pool area is that important, Kroger does own some shopping center, one of which is the Beaumont Center and can provide van pool spaces at that location, if needed. He said that they believe Beaumont Shopping Center is a good location for a van pool lot since it is close to Man o' War Boulevard and New Circle Road. Mr. Cornett said that Bates Creek Center is limited on parking spaces, and this is the reason why they had requested the reduction in the parking requirements. He said that Bates Creek Center is a successful shopping center and they do not want to hinder the success of any other store because of parking. They will work with the staff

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to provide a van pool lot at another Kroger location, but they do not want this to influence whether or not this request is approved by the Commission today.

Mr. Cornett said that the new Chase Bank will be located at the end of the new addition. It will be a full service facility, but there will also be an internal connection to Kroger. He directed the Commission's attention to the previously submitted exhibit, and said that there was a concern with the height variations of the building. They are proposing a 3-foot elevation change, which is similar to the 3-foot vertical setback wall plane. In speaking with the staff, it was determined that the 3-foot elevation change should be carried throughout the development with regards to height, as well as the offsets of the building.

In conclusion, Mr. Cornett stated that they are in agreement with the staff's recommendations, and requested the Commission approval of DP 2011-27.

Planning Commission Questions – Mr. Holmes asked if the smaller transit stop on this development will be a covered shelter and a pull-off. Mr. Cornett said that in speaking with the Transit Authority, it was decided that the shelter would not be covered. However, if needed, a covered shelter could be provided. He then said that this transit stop will be a pull-out, and would be able to sustain any size vehicle, including larger buses.

Mr. Cornett said that they have revised the development plan showing the sidewalk connection off of Tates Creek Road down to the shopping center, and this area will be marked. He then said that the bike rack will be relocated to the front of the building, as requested by the staff.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request. There was no response.

Planning Commission Discussion - Mr. Owens thanked Mr. Cornett for providing the exhibit, and asked for clarification as to whether or not the front façade is being changed. Referring the Commission to the elevation drawing, Mr. Cornett explained that the front façade would be enhanced in sections. He said that a portion of the structure would be new construction; and with regards to the drive-through pharmacy, an awning will be installed to help protect customers from the weather. The awning would also help to provide a connection from the main building to the remaining portion of the shopping center. Mr. Cornett noted that Kroger would need the approval of Chase Bank prior to their relocation. He said that this relocation would benefit Chase Bank by providing a drive-through for their customers, and would eliminate the need for the existing drive-through facility that is currently on an outlot closer to Man o' War Boulevard.

Ms. Copeland said that the applicant had asked to expand the structure and to change roofline elevation. It was her belief, that this request should reflect the addition of a second-story support facility for the Kroger staff and employees. If this development is going to increase the density of the shopping center, it should expand upward and not outward.

Ms. Copeland then said that this development is already limited on parking space, and to request this development to provide parking spaces for the Park and Ride program (van pool) is sending a mixed message. She said that she is in favor of the Park and Ride program, but it would be beneficial to provide these services off site, perhaps at a nearby church. This would alleviate the parking constraints on this shopping center because of how it was designed. She said that this shopping center was not designed to accommodate a Park and Ride program. The Park and Ride program is the right idea, but not for this development.

Ms. Copeland concluded that this development should expand upward and not outward. It could provide a second-level that would be utilized by the staff and employees of Kroger. She said that this shopping center is not suitable for the Park and Ride program.

Mr. Owens referenced the Big-Box Design Guidelines staff recommendation, condition "b," which reads: "Identify van pool parking area on site, to the approval of the Metropolitan Planning Organization staff." He asked if this is requiring the development to provide the van pool parking area, and what would happen if the applicant could not provide the van pool parking area. Mr. Martin said that should this condition remain listed on the Big-Box Compliance report, the applicant would need to provide that service. He then said that if the condition is changed to "resolve" and the van pool parking area could not be resolved, this development could not move forward and would need to be reviewed again by the Commission. As this request stands, the staff is recommending that that condition remain listed. Mr. Owens said that he agreed with Ms. Copeland's comment that the parking for this development is limited. He then said that if the van pool lot were possible, that would be great; but if the site is not capable of providing that service, this request should not be denied. He asked how this issue could be resolved. Mr. Martin said that should the Commission find that the van pool parking (condition "b") is unsuitable for this property, the staff is agreeable with the previous suggestion from the applicant to provide the van pool parking elsewhere.

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Mr. Cravens said that he was in agreement with some of the previous comments, and this decision will impact the other stores within the Bates Creek Shopping Center. He then said that it is significant that Kroger does not control the entire development; they only control their parking area.

Ms. Copeland asked how many parking spaces are required for the Park and Ride program. Mr. Taylor said that the Metropolitan Planning Organization staff has noted that 12-16 parking spaces are needed for a 16 passenger van. Ms. Copeland then asked if the Metropolitan Planning Organization staff would be agreeable to leasing the parking spaces from a church. Mr. Taylor said that he could not speak on their behalf. Ms. Copeland asked if the Metropolitan Planning Organization (MPO) insists that the Park and Ride program be at a shopping center. Mr. Taylor said that the MPO had requested this service, if it was possible. Ms. Copeland asked if the Beaumont Shopping Center could be used to provide this service. Mr. Taylor said that anytime there is a large Big-Box development, that guideline would be reviewed in that proposal.

Closing Comments - The Chair asked if both recommendations should be acted upon simultaneously or separately. Mr. Martin said that as part of the motion for the development plan, the Commission would need to make a finding that this request complies with the Big-Box Design Guidelines.

Mr. Owens said that he did not want to box in the applicant because of the van pool issue, and he was debating about either adding "or off site" to condition "b" (Identify van pool parking area on site or off site, to the approval of the Metropolitan Planning Organization staff) or removing the condition all together. He then said that without the MPO staff being present, he was not sure if this could be resolved.

Mr. Owens asked if the motion should be separate or together. Ms. Boland said that the Commission would need to clearly adopt the finding of the Big-Box Design Guidelines to find it in compliance.

Mr. King said that the Metropolitan Planning Organization is a section of the Division of Planning; and for this request, the van pool parking area was an issue that the staff was exploring; not a "line in the sand." He then said that the Commission could either leave the condition "as is" to see if it could be resolved or remove the condition from the list of recommendations. He said that the applicant is working toward an approval; but if the Commission feels this site is inappropriate, then it could be noted off the record that another location should be sought out.

Mr. Owens said that he agreed with Mr. Cravens' previous comments, and that each site is different from the next. He then said that the Beaumont Shopping Center has more parking spaces available to provide this type of service than the Bates Creek Center Shopping Center.

Action - A motion was made by Mr. Owens, seconded by Mr. Cravens, and carried 10-0 (Blanton absent) to approve DP 2011-27, subject to the recommendations provided by the staff; deleting condition number #12; and denoting that this request is in compliance with Big-Box Design Guidelines, as it was stated by the staff, deleting condition "b."

- b. ZDP 2007-81: VILEY HEIGHTS SUBDIVISION, UNIT 3-D (OBEY & JOELLA WALLEN PROPERTY) (6/28/11)* - located at 1388 Alexandria Drive. (Council District 11) **(Justice Surveying)**

Note: The Planning Commission indefinitely postponed this plan at their July 26, 2007, meeting, pending the zoning decision by the Urban County Council. The Urban County Council approved the zone change request at their October 18, 2007, meeting. The Planning Commission approved this plan at their November 8, 2007, meeting, subject to the following conditions:

1. Provided the Urban County Council rezones the property B-1; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Building Inspection's approval of landscaping.
5. Urban Forester's approval of tree inventory map.
6. Addition of required retail parking in site statistics.
7. Denote uses of buildings in site statistics.
8. Addition of tree protection plan.
9. Correct plan title.
10. Delete signs from plan.
11. Addition of the 1992 floodplain information and the newer DFIRM maps.

Approval of this plan has since expired. A few weeks ago, the Planning Commission asked to redocket this item for consideration.

The Subdivision Committee Recommended: **Reapproval**, subject to the original conditions, changing #11 as follows:
11. Addition of the current ~~1992~~ floodplain information and the newer DFIRM maps.

* - Denotes date by which Commission must either approve or disapprove plan.

Staff Presentation – Mr. Martin directed the Commission's attention to a rendering of the Final Development Plan for Viley Heights Subdivision, Unit 3-D (Obey & Joella Wallen Property). This property is located at 1388 Alexandria Drive. He noted that this property was associated with an earlier zone change request from P-1 to B-1 (MAR 2007-18).

Mr. Martin oriented the Commission to the nearby street system, and said that the subject property is situated at the corner of Alexandria Drive and Devonport Drive. He then said that there is an existing apartment complex to the west; and directly across Alexandria Drive, a zone change from P-1 to B-1 was recently approved for property located at 1389 Alexandria Drive (MAR 2011-4: W. Nelson McMakin).

Mr. Martin stated that when this property was rezoned, there was an existing structure already on site, and the applicant was not proposing that any physical changes be done. The floor coverage for this structure is approximately 9,280 square feet, and there are 58 parking spaces associated with this development. He said that the Planning Commission reviewed the requested zone change and recommended disapproval at their June 26, 2007, meeting. However, the Urban County Council overturned that decision and granted approval of the applicants' request. The Zoning Development Plan was resubmitted for review and was approved by the Planning Commission at their November 8, 2007, meeting. Mr. Martin said that during the recent hearing for MAR 2011-4, the issue of how the subject property was being utilized was discussed, which led to the realization that this development plan had not been certified. He then said that since the approval of this plan had expired, the staff informed the Planning Commission, and the item was redocketed to today's meeting for consideration.

Mr. Martin then stated that the Subdivision Committee had reviewed this request at their April 7, 2011, meeting, and recommended reapproval of this plan, subject to the original conditions listed on today's agenda. He noted that since the plan was approved, the floodplain and DFIRM maps had been updated; therefore, the applicant would need to show this on their plan (condition #11).

Planning Commission Questions – Ms. Copeland commented that most of the current Commission members were unaware of the history of this request, since it was approved in 2007. She asked for a brief history as to what had transpired to this point. Mr. Martin said that the Planning Commission had disapproved the zone change request and indefinitely postponed the zoning development plan, pending the Urban County Council's decision. The Urban County Council reviewed the zone change request and granted its approval. The zoning development plan was then resubmitted to the Planning Commission for review and was granted conditional approval. However, the applicant had failed to submit a mylar to the staff for certification within the time allowed.

Ms. Copeland asked if there has ever been an attempt to clean up the conditions listed on the agenda since the original approval. Mr. Martin said that the applicant had not addressed any of the original conditions. Ms. Copeland asked if any of the conditions listed on the agenda had been addressed with the rendering now being shown. Mr. Martin noted that conditions # 1 through 5 are standard sign-offs, and that the applicant has addressed conditions # 6, 7, 8, and 9, but not conditions #10 and 11.

Ms. Copeland commented that the applicant has had five years to address these conditions. Mr. Martin said that he could not speak on the applicant's behalf as to why these conditions were not met. Ms. Copeland said that at the Subdivision Committee meeting, the applicant was made aware that the floodplain information and the DFIRM maps (condition #11) were to be updated prior to today's hearing. Mr. Martin responded that the entire list of conditions must be addressed prior to certification. Ms. Copeland commented that perhaps the conditions should be addressed prior to this item being approved.

Mr. Owens asked for confirmation that this property was approved for a zone change from P-1 to B-1. Mr. Martin replied affirmatively. Mr. Owens asked if a business could operate out of a building when the plan has not been certified. Mr. Martin said that a business would need to obtain a Certificate of Occupancy from Building Inspection prior to operation. Mr. Owens asked that in order to receive a Certificate of Occupancy from Building Inspection, if the plan must be certified. Mr. Martin replied affirmatively. Mr. Owens asked if Building Inspection was aware of these businesses operating out of this building. Mr. Martin said that he could not speak on Building Inspection's behalf, and the Building Inspection staff could not attend today's meeting. He noted that the staff had received copies of enforcement letters from Building Inspection to the property owner for the outside events that are occurring on this property. Mr. Owens said that during his site visit, most of the businesses utilizing this development appear to be retail uses, which are allowed in the B-1 zone, but not the P-1 zone. He requested that a staff member from Building Inspection speak to the Commission as to why this was allowed and what will be done.

Ms. Roche-Phillips asked if there is a night club at this location. Mr. Martin replied negatively, and said that there is or was formerly a night club located across Alexandria Drive.

Mr. Owens asked if there is a check list as to when a plan should be certified. Mr. Martin said that the applicant has one-year from the day the Commission approves the plan to have it certified. He then said that if the plan expires, the applicant must resubmit the plan in order for it to be reapproved.

* - Denotes date by which Commission must either approve or disapprove plan.

Representation – Dick Murphy, attorney, was present on behalf Obey Wallen. He said that the Planning Commission had disapproved the requested zone change, and indefinitely postponed the zoning development plan, pending the outcome of the past Council meeting. He then said that the Urban County Council reviewed the requested zone change and granted approval. At that point, the zoning development plan was resubmitted to the Commission for consideration. He indicated that during the review of the zoning development plan, there was no one present on behalf of his client. There was miscommunication throughout the process and his client's representative was not familiar with the process of filing a request, which is what led to this plan not being certified in a timely manner.

Mr. Murphy said that they did indicate at the Subdivision Committee meeting, that if the cleanup conditions were not completed, they would be agreeable to a one-month postponement. He noted that a revised plan was given to the staff earlier in the week, on which most of the conditions that were not sign-offs were addressed. He then said that conditions #1 through 5 are signoff conditions; and from listening to the staff's presentation, conditions #6 through 11 have not been fully addressed. He indicated that they are agreeable to either abide by the conditions listed prior to certification or postpone this item for one month.

Mr. Murphy stated that in speaking to his client, there are enforcement problems due to outdoor activities, such as vendors, and those vendors are using his dumpster to dispose of unwanted items. He noted that several property owners in the area are having the same problem. They have notified the proper authorities and have posted signs on the property in an attempt to correct this problem.

Mr. Murphy then stated that this development does permit B-1 uses and there are a few P-1 uses operating on the property. He said that his client is aware of this issue, but it was his client's understanding that these businesses did obtain a Certificate of Occupancy from Building Inspection.

Mr. Murphy concluded by saying that this problem occurred due to his client's representative not being familiar with the procedure of filing such a request. He said that a revised plan was submitted to the staff, which addresses most of the cleanup conditions. However, if needed, they are also agreeable to a one month postponement.

Planning Commission Questions – Ms. Copeland said that it was her opinion the applicant has illegally operated this development for three years without the proper documentation. She said that should the applicant address these issues, Mr. Murphy's client still has up to a year to certify the plan. She asked if his client would be agreeable to obtaining the proper documentation within one month prior to the plan being approved by the Commission. Mr. Murphy said that it could take up to 60 days to obtain all the property sign-offs; and due to the limited staff in some agencies, it could take several weeks to obtain all the necessary sign-offs for this plan. They do not want this plan to expire again because of the limited availability of the staff. He said that he does not believe his client has been operating illegally, and all the requirements for the B-1 zone are being met. He understands that the Commission could choose to add another condition that mandates certification of this plan within a specific time period, but he requests that the time period be longer than 30 days.

Ms. Copeland said that the applicant could request additional time if the plan is not certified. Mr. Murphy said that since such an item can not be added to an agenda "the day before" a meeting; there is a protocol in requesting additional time for this type of item.

Ms. Beatty noted that she understands Ms. Copeland's concerns, and asked if the Commission sets a time line to obtain the Certificates of Occupancy. Ms. Boland said that the Zoning Ordinance states how much time the applicant has to certify a plan. This issue is less problematic since Mr. Murphy has indicated that his client would be agreeable to an extended amount of time (greater than 30 day), but the Commission can not place more constraints on one developer and not the next developer in order to certify a plan.

Ms. Beatty said that Mr. Owens previously requested additional information from Building inspection, and suggested that this item be postponed. She then said that she is concerned as to how this occurred since it was approved in 2007, and asked if the Commission would be agreeable to a postponement versus adding an additional condition.

Mr. Owens said that he is agreeable with the plan being postponed or approved, but he would like for Building Inspection to clarify as to whether or not the businesses operating out of this development had obtained a Certificates of Occupancy. He noted that Mr. Murphy was agreeable with a one-month postponement and this extra time would allow the plan to be clean up.

Mr. Holmes said that he is agreeable with this plan being postponed to clean up the remaining conditions; but with regards to the businesses operating out of this development, this is an enforcement issue for Building Inspection. He said that it is Building Inspection's responsibility to enforce what businesses are allowed in a specific zone.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request. There was no response.

* - Denotes date by which Commission must either approve or disapprove plan.

Action - A motion was made by Ms. Copeland, seconded by Mr. Holmes, to postpone ZDP 2007-81 to the May 12, 2011, Planning Commission meeting.

Discussion of Motion – Mr. Owens asked Mr. Murphy when they would like this item to be revisited. Mr. Murphy said that they are agreeable to a 30-day postponement.

The motion carried 9-0 (Cravens opposed; Blanton absent).

- C. PERFORMANCE BONDS AND LETTERS OF CREDIT** – Any bonds or letters of credit requiring Commission action will be considered at this time. The Division of Engineering will report at the meeting.

Action - A motion was made by Mr. Owens, seconded by Mr. Cravens, and carried 10-0 (Blanton absent) to approve the release and call of bonds as detailed in the memorandum dated April 14, 2011, from Ron St. Clair, Division of Engineering.

- V. COMMISSION ITEMS** - The Chair will announce that any item a Commission member would like to present will be heard at this time.

- A. FAYETTE COUNTY BOARD OF EDUCATION** – Mr. King noted that the staff had submitted a letter to the Commission from Dr. Jacobson, who is representing the Fayette County Public Schools. He said that Dr. Jacobson has invited the Commission members to join a focus group to help determine the new Superintendent for the Fayette County Public Schools.

- VI. STAFF ITEMS** – The Chair will announce that any item a Staff member would like to present will be heard at this time.

- A. UPCOMING WORK SESSION** – Mr. King reminded the Commission members of the upcoming work session scheduled for April 20, 2011.

- VII. AUDIENCE ITEMS** – There were no citizens present wishing to bring a planning related matter before the Commission at this time for general discussion.

VIII. NEXT MEETING DATES -

Work Session, Thursday, 1:30 p.m., 2 nd Floor Council Chambers	April 21, 2011
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (Phoenix Building)	April 27, 2011
Zoning Items Public Hearing , Thursday, 1:30 p.m., 2 nd Floor Council Chambers	April 28 2011
Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (Phoenix Building)	May 5, 2011
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (Phoenix Building)	May 5, 2011
Subdivision Items Public Meeting , Thursday, 1:30 p.m., 2 nd Floor Council Chambers	May 12, 2011

- IX. ADJOURNMENT** - There being no further business, a motion was made to adjourn the meeting at 2:48 PM.

Carolyn Richardson, Chair

Mike Owens, Secretary